Standing orders of the House of Commons

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THE STANDING ORDERS OF THE HOUSE OF COMMONS: HIGHLIGHTS OF THE 1991 AMENDMENTS

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INTRODUCTION

On 11 April 1991, the House of Commons passed a motion making major amendments to its Standing Orders. This was one of the most extensive packages of changes ever enacted at one time, changes which will have far-reaching implications and a significant impact on how the House operates in the future.

The Standing Orders are the rules or by-laws that govern the procedure of the House of Commons, although, the House can, by unanimous consent or majority vote, override or waive them. Various statutory provisions, precedents, Speakers' rulings, traditions and practices also influence and determine how the House operates. Nevertheless, the Standing Orders constitute a body of procedural rules that are of fundamental importance and from which the effectiveness and efficiency of the House of Commons, and of individual Members of Parliament, in large part derive. As the Hon. Harvie Andre said in the House on 8 April 1991: "Parliament's task is to debate issues and to make decisions and the Standing Orders of the House guide this process. They govern the proceedings of the House and provide a framework in which the government carries out its legislative program and the opposition questions the government in an orderly way and hon. members debate issues and make decisions by majority vote" (*Debates*, p. 19133).

The Standing Orders are continually evolving and adapting in order to meet new demands or circumstances. There have been major revisions several times over the past few years in an attempt to make the Standing Orders more relevant to a modern political system, and to improve the

functioning of the House of Commons. The most recent overhaul came about in 1985, as a result of the recommendations of the Special Committee on the Reform of the House of Commons, commonly known as the McGrath Committee after its chairman, James A. McGrath. Various minor changes, and provisional or temporary changes, were made between that time and the present.

A number of factors contributed to the 1991 changes. Experience, with the 1985 reforms had led certain people to conclude that some of these were not working as had been intended, and that further changes were required. In addition, not all of the McGrath Committee's recommendations had been implemented, and, in many cases, changes in one area had unforeseen consequences or implications in other areas. On the other hand, certain aspects of the Standing Orders had not been addressed by either the McGrath Committee, or the 1985 reforms. Also, by 1991 the composition of the House was quite different from what it had been in 1985, when there was a large Conservative majority.

The present process began with certain frustrations felt by the government, and a desire on its part for changes. Discussions among the House leaders began in 1990, and culminated with the circulation of a working paper of proposed Standing Order changes and options prepared by the Government House Leader, Mr. Harvie Andre. This document formed the basis for further discussions and negotiations among the recognized political parties. It appears that the independent Members of Parliament and the smaller political parties were not actively involved in these talks.

On 26 March 1991, Mr. Andre tabled a motion in the House of Commons setting out the government's proposed changes. The motion was over 30 pages long, with 64 separate provisions. A number of the changes were of a housekeeping nature, others were minor or relatively uncontroversial. While there was substantial all-party agreement on some changes, a significant number of the major changes were bitterly opposed by some or all of the opposition parties and Members.

While all Members of Parliament have the same basic objectives, it is obvious that the interests and approaches of government and opposition Members differ on specific issues. Procedural rules involve

a balancing of interests: the party that is in opposition today may form the government after the next election, and vice versa. The role of the opposition in a parliamentary system is to oppose and, sometimes, to delay, partly in the hope of influencing public opinion. The government, on the other hand, has a legislative agenda that it wishes to implement as expeditiously as possible; it does not want to be perceived as stifling debate or silencing opposition, but the affairs of state cannot be allowed to come to a standstill.

Parliament is based on an adversarial system. It is a highly partisan place. A great deal is achieved through negotiation and co-operation, but where this is not possible, the procedural rules must prevail. The conflicting interests of the majority and the minority must be respected and protected. This often involves a delicate balancing, which is essential if the system is to function properly.

The proposed changes to the Standing Orders were debated in the House over the course of several days in late March and early April. Finally, on 11 April 1991, the government invoked closure to limit debate and the motion was approved, by majority vote, in the early hours of 12 April 1991. The changes are to come into effect on the first sitting day of the Third Session of the 34th Parliament.

This paper will provide a summary and overview of the changes to the Standing Orders. It is not possible in a paper of this nature to give a comprehensive list of the amendments, or to explain in detail the reasoning behind the changes or the objections of the opposition parties. For more detailed information and advice on specific issues, it is suggested that Members of Parliament and their staff consult the table officers of the House of Commons.

SITTINGS OF THE HOUSE OF COMMONS

One of the most publicized changes involves the calendar of the House of Commons. The number of non-sitting weeks has been increased, by providing longer summer and Christmas breaks, and having other weeks off.

Under the old calendar, the House of Commons was scheduled to sit for up to 175 days per year, although over the past ten years the average number of sitting days has been 155. The new rules provide for approximately 134 sitting days a year.

The stated purpose is to enable Members to spend more time in their ridings. The provision is designed particularly to address the problems of Members who come from the more remote parts of the country, and who must spend considerable time travelling to and from Ottawa, and getting around their constituencies.

Some historical perspective is helpful here. In the past, Parliament sat for only a small part of the year, and most Members of Parliament stayed in Ottawa during the time the House was in session. With the advent of modern transportation, it became easier for Members to travel back and forth between Ottawa and their constituencies, so that constituents have come to expect that they will see their MPs more often.

The concept of a fixed parliamentary calendar is a relatively recent innovation, which was designed to enable politicians to plan their schedules, and to prevent the government from manipulating the time when the House would rise. Under the existing calendar of sittings, the House of Commons meets from September to June, with time off at Christmas and Easter, as well as during two other week-long breaks during the year. The 1991 changes have introduced further breaks into this schedule.

While the changes are undoubtedly beneficial for many Members, especially those from more remote parts of the country, they will reduce the amount of time that the House of Commons will be in session. The trend over the past century or so has been in the opposite direction. As government becomes more complicated and assumes more responsibilities, the amount of work that Parliament must handle necessarily increases.

If Parliament has more work to do, increasing the number of sittings is not the only solution; an alternative is to increase its efficiency. In arguing for this change, the government cited statistics for the average number of sitting days in other countries. In the number of days that the House of Commons sits, and the amount of legislation that it

passes, Canada generally does not compare favourably with other Western democratic countries. Such comparisons, however, can be misleading, as it is necessary to take into account many different factors, including the hours of sittings, the roles and responsibilities of legislative committees, and so forth. Nevertheless, such an exercise does illustrate that there is much to learn from the practices and experiences of other legislative bodies.

Another suggestion would have had the House of Commons sitting only four days a week -- for instance, Monday to Thursday, with Fridays off. Such a schedule is followed in several provincial legislatures in Canada, and accords with the reality that many MPs now spend only about three or four days a week in Ottawa in any event. Three-day weekends, however, would not significantly address the problem of travel to more remote ridings.

It is interesting that as long ago as the 1960s the Canadian House of Commons considered the concept of sitting and non-sitting weeks; the House of Commons Committee on Procedure and Organization suggested in 1968 that parliamentary sessions operate on the basis of five-week cycles: each cycle would consist of three weeks of regular sittings, followed by one week of committee hearings and one week of adjournment. This proposal was rejected at the time, as were a few other similar suggestions that have been made over the years. The Australian House of Representatives has had a system of regular non-sitting weeks since 1950, and the New Zealand Parliament has also instituted this practice.

Several issues arise from these changes in the calendar. First, there is the fact that for a variety of reasons the House seldom sits all the time that it is supposed to. Elections, leadership conventions, and general consensus often lead to unscheduled breaks. Thus, though, as noted above, the old rules provided for 175 sitting days, the actual number that the House sat was closer to 155. It is likely that the 134 sitting days now planned will be reduced still further. While there may be less willingness or motivation to do this initially, over time, the trend could develop afresh. At the same time, experience over the last few years has shown that countless external events necessitate that the House

be called into session even though it is not scheduled to sit. In the past, this has often meant that summer breaks were interrupted or cut short; it can be expected that this will happen to some of the sessional breaks also.

Second, the government stated that its principal reason for the amendments was to ensure that Members had the opportunity to spend more time in their ridings, both to listen to constituents and to explain their actions. Nevertheless, there may well be a tendency to schedule committee meetings or travel during the weeks that the House is not sitting; while there is nothing wrong with this, it could prevent Members from having substantially more time at home than under the present regime, unless they were prepared to miss committee meetings.

To make up for the reduction in sitting days, the Standing Orders have been amended to increase the hours per day that the House sits. The intended effect is that the total number of hours per year will be roughly the same as under the old rules. The extra time will be devoted to Government Business, with the exception of a new Private Members' Hour on Wednesdays. The changes in the daily timetable of the House include starting earlier on Mondays, Tuesdays, Thursdays and Fridays, and finishing later on Wednesdays and Fridays. The sittings on Wednesdays will last until 8:00 p.m., and will be the first scheduled evening sittings to be part of the House's regular timetable since 1982, when evening sessions were eliminated, partly in response to the desire of members to spend time with their families, or participate in other activities.

The opposition parties criticized the fact that up to 40 Question Periods will be lost under the new calendar; the government apparently offered to increase the time allotted to Question Period by 15 minutes a day so that the total time would remain similar, but this provision was not included in the final motion. Another suggestion, for extra sitting weeks to be added during the summer or at Christmas to make up for the weeks off, was also rejected.

PROCEDURAL CHANGES FOR DEBATES

Closely associated with the changes to the parliamentary calendar and timetable are a number of changes to debates in the House of Commons. The Throne Speech debate, for instance, is reduced from eight to six days, and the Budget debate is reduced from six days to four. The rules also introduce a restriction of second reading debate on borrowing authority bills, so that the matter will automatically come to a vote after two sitting days.

The number of opposition days in a normal year has been reduced from 25 to 20. These allotted days allow the opposition parties to select the subject of debate, and are formally related to the granting of supply or funds to the government to finance its activities. The reduction of allotted days to 20 is consistent with the practice in the British House of Commons. Every week that the House is recessed beyond the time provided for in the calendar, however, the Speaker will reduce the number of opposition days proportionately. By the same token, for every five days that the session is extended, one opposition day will be added. The number of votable opposition days in a supply period has also been reduced from four to three, provided that no more than eight opposition motions are voted on during the allotted 20 opposition days.

The 1991 changes to the Standing Orders also introduced new limits on the length of speeches. For example, under the old rules, at second reading of government bills, the first three speakers (other than the Prime Minister and the Leader of the Opposition) were allowed to speak for 40 minutes, whereas under the new rules only the first two speakers will be allowed to do so, and the time limits will also apply to third reading debates. Thereafter, speakers will be limited to 20 minutes for the first five hours of debate, rather than for the first eight hours, as was previously the case. After five hours, speeches must be ten minutes or less. The rule changes also permit the party Whips to split the time allotted for their Members to allow for more participation, which previously could only be done with unanimous consent.

The motion of 11 April also introduced certain changes to the rules for closure and time allocation, two devices whereby the

government can limit or cut off debate. When closure was invoked under the old rules, the debate had to conclude by 1:00 a.m., at which time a vote would be taken. The new rules provide that debate continues only until 11:00 p.m. -- two hours earlier -- at which time the matter is to be voted upon. The rules regarding time allocation have been changed so as to allow it to be introduced more quickly, without a two-hour debate or having to wait a day.

COMMITTEES

Perhaps the most significant recommendations of the McGrath Committee involved the role and powers of committees and led to tremendous changes in the ways that committees operated, and to their enhanced importance. Some committees -- notably the Standing Committee on Finance under Don Blenkarn -- have acquired considerable influence.

After six years of experience with the changes recommended by the McGrath Committee, certain defects or shortcomings in the committee system had become clear. Moreover, the composition of the House of Commons differs considerably from what it was in 1985. Government and opposition Members also tend to view the importance and role of committees differently.

There had been various proposals for reforming the committee system. One was to reduce the number of standing committees from the present 22 to 11 or 12, with broader mandates and competition for places on committees. Another was the creation of four or five "super-committees," with large areas of study; sub-committees could be established to study specific issues, and would report to the full committee.

In the end, however, there was little structural change to committees, but a number of significant changes to the rules. First, all the standing committees of the House were gathered into five broad "envelopes," four of which contain about four or five committees, under a general subject area:

(a) Management: The Standing Committees on:
    (i) House Management; and
    (ii) Public Accounts;

(b) Human Resources: The Standing Committees on:
    (i) Aboriginal Affairs;
    (ii) Health and Welfare, Social Affairs, Seniors and the Status of Women;
    (iii) Human Rights and the Status of Disabled Persons;
    (iv) Labour, Employment and Immigration; and
    (v) Multiculturalism and Citizenship;

(c) Natural Resources: the Standing Committees on:
    (i) Agriculture;
    (ii) Energy, Mines and Resources;
    (iii) Environment; and
    (iv) Forestry and Fisheries;

(d) Economics: the Standing Committees on:
    (i) External Affairs and International Trade;
    (ii) Finance;
    (iii) Industry, Science and Technology, Regional and Northern Development; and
    (iv) Transport;

(e) Departmental: the Standing Committees on:
    (i) Communications and Culture;
    (ii) Consumer and Corporate Affairs and Government Operations;
    (iii) Justice and Solicitor General;
    (iv) National Defence and Veterans Affairs; and
    (v) Official Languages.

The House Management Committee is the only new committee. It is an amalgam of the old Management and Members' Services, Privileges and Elections, and Striking Committees. As such, it could prove to be very powerful and rather busy.

There is also a Standing Joint Committee on the Scrutiny of Regulations, with representation drawn from both the Senate and the House of Commons. Previously, official languages was also a joint House and Senate committee; under the new rules, the House has decided to terminate this status.

In addition, the system of legislative committees established on an ad hoc basis to study a particular bill has been replaced by the creation of "standing" legislative committees. In each envelope except Management, two legislative committees, of not more than 14 members each,

will be appointed, each of which will be designated by a letter of the alphabet. While the chairmen will change from bill to bill, the committee and its membership will continue.

The significance and purpose of the envelope system is seen in several ways. First, in terms of the scheduling of meetings, each group of committees within an envelope shall have priority in use of two committee rooms. In effect, this means that within the envelope, the four or five standing committees and two legislative committees will be restricted to no more than two meetings called at the same time. Moreover, legislative committees are to have priority during those hours when the House is sitting. This will both limit the number of meetings that individual committees can convene, and require a certain amount of coordination and negotiation. It may also encourage the holding of meetings at "off-peak" times, such as on Mondays and Fridays, and in the evenings. The problem of booking meeting rooms will be particularly difficult for any committee dealing with a complex issue, involving a great many witnesses and meetings.

One of the government's stated goals is for Members to specialize in a particular envelope or area. To this end, rules regarding substitution of Members on committees within the same envelope have been established. Substitution of Members, and the ensuing lack of continuity and expertise, has been a problem in the past and will undoubtedly continue to be one. The hope is that Members will be able to develop expertise in a particular envelope, although some of the committees that have been grouped together remain rather disparate. At the same time, it appears to be the idea that with fewer committee meetings, there will be fewer reasons for absenteeism.

No committees will have less than seven or more than 14 members. It is understood that the government hopes that the maximum membership of some committees will be reduced from 14 to eight, but this is not specified in the Standing Orders. The McGrath Committee recommended smaller committees; experience has generally been that they work collegially and effectively, although much greater responsibility is placed on individual members.

Under the 1985 rules, parliamentary secretaries were not permitted to sit on standing committees which oversee their departments. The feeling was that they would exert too much influence, and inhibit the freedom of other Members. The government feels, however, that with the powers of committees to examine anything they want within their general mandates, this is no longer a concern; accordingly, the new rules provide that parliamentary secretaries may again sit on any standing committees.

The new Standing Orders also provide, for the first time, that each standing committee is to have a Chairman, and two Vice-Chairmen, of whom two shall be Members of the government party and the third a Member in opposition to the government. By tradition, three standing committees have had chairmen drawn from the opposition: Public Accounts, Management and Members' Services, and Scrutiny of Regulations. It is unclear whether this practice will continue. This new Standing Order also appears to assume that the government party has a majority of seats in the House of Commons; as with various other provisions, this might need to be reviewed in the event that a minority government assumed office.

The new rules also for the first time make express provision for minority committee reports to be tabled in the House of Commons, with brief statements on the contents by a committee member. In the past, only committee chairmen (or their delegates) could table reports, even if dissenting or minority reports were appended. The wording of the new Standing Order, however, provides that only a member of the Official Opposition party can present "supplementary or dissenting opinions or recommendations," not a member of any other recognized political party or an independent Member.

Provision is also made in the new Standing Orders for committee proceedings to be televised. This had been recommended by the Standing Committee on Privileges and Elections in its December 1989 report, *Watching the House at Work.* Committee proceedings can be televised in two ways: first, the meeting can be filmed by House of Commons personnel and broadcast as part of the parliamentary channel; and, second, the electronic media can be allowed to be present during a meeting and to film or record the proceedings for their own use. There are precedents for both approaches in legislatures in other jurisdictions.

Under the new Standing Orders, if a committee wishes to have the House of Commons Broadcast Unit broadcast its proceedings, it will have to obtain a order from the House, as at present. The electronic media, however, can be allowed to cover committee proceedings without obtaining the consent of the House. The Standing Committee on House Management will develop experimental guidelines for the broadcasting of committee proceedings by the media, and after the House of Commons has concurred with these, any committee may permit its proceedings to be covered by the electronic media.

While some concern was expressed by opposition Members about this rule during the debate over the new Standing Orders, it is consistent with the spirit of the Privileges and Elections Committee recommendations. Moreover, support for (and opposition to) the broadcasting of committee proceedings crosses party lines, and much will, therefore, depend on the membership of an individual committee.

The new rules on legislative committees have been controversial. The creation of standing legislative committees to deal with bills is obviously a departure from the old practice, but it is similar to the approach in the British House of Commons. One advantage is that it prevents the proliferation of legislative committees. In addition, it creates an incentive for bills to be moved through the process expeditiously since there may be more than one bill waiting to be dealt with by a particular committee. More problematic is the new provision that a Minister may, in proposing the second reading of a bill, give notice that he or she intends to move that the bill be referred to a standing or special committee, rather than a legislative committee. The opposition parties have argued that this makes it easier to bypass legislative committees than was possible under the old Standing Orders. The new rule introduces a measure of flexibility, and also accords with the practice that has developed whereby a number of bills in the last session were referred to standing or special committees for study after second reading -- for example, the Finance Committee and the Special Committee on the Review of the *Parliament of Canada Act*.

One clause that has raised particular concern among opposition politicians and various interest groups is a provision that

empowers legislative committees to "send for officials from government departments and agencies and crown corporations and for such other persons whom the committee deems to be competent to appear as witnesses on technical matters." The concern is that the phrase "witnesses on technical matters" severely limits potential witnesses. A number of points may be made in this regard.

First, as the provision indicates, all witnesses are subject to a vote, of the committee, and the majority can, therefore, limit or expand the number of people to be called as witnesses. This is not a change from the old procedure; it is quite common for committee Members to arrive at a consensus about witnesses. The government has indicated that it does not expect that the new wording will substantially change the practice of selecting witnesses.

Second, it is important to appreciate where legislative committees fit into the legislative process. The vote in the House of Commons at second reading is a vote on the bill in principle. It is only when the bill has been so approved that it is referred to a legislative committee. There are very detailed procedural rules for what kind of amendments are permissible in committee; those which go beyond the scope of the bill should be ruled out of order. Obviously, there is scope for interpretation, and, to some extent, it is arguable that one needs to look at the implications of a bill in order to determine whether the proposed wording is acceptable. Many witnesses use their appearance before legislative committees to debate the policies in a bill, but this is not the purpose of such meetings or the place for such discussions. The opposition parties may be anxious to mobilize public support, but it is in a sense unfair to witnesses to have them prepare and present briefs that cannot, as a procedural matter, be implemented or adopted by the committee. The actual wording of the bill -- and the technical aspects, the drafting -- should be the focus of legislative committee proceedings.

The intent of the McGrath Committee was that the policies or principles of a bill would be reviewed by standing committees prior to the introduction of legislation. Either the government would issue draft

legislation or a discussion paper, or the committee would of its own volition study a particular subject. The recommendations and findings of the committee would be used as the basis for drafting the bill. In other words, the subject matter would be studied by a parliamentary committee before any vote on the principle of the bill. Thus, legislative committees would have to engage only in the fine-tuning or revising of legislation to ensure precise and accurate wording.

This approach has a great deal of merit, and, has, on a few occasions, been adopted. For example, the recent amendments to the *Parliament of Canada Act* were largely the result of a special committee's recommendations. In order for the system to work, however, there needs to be more pre-study of policies and legislation; this necessitates more openness on the part of bureaucrats and cabinet ministers and a different approach on the part of committees and politicians.

Whether the new Standing Orders in fact lead to real change or not depends on what happens with the whole legislative process and committee system, and the attitudes of government Members. If standing committees engage in more pre-study of bills, there should be less need to have numerous witnesses at the legislative committee stage, and, in fact, witnesses could be restricted to technical drafting matters. Government Members could also use the new wording to vote down attempts to invite many witnesses, but the implications of doing so would have to be assessed. At the same time, the changes are a signal from the government that committee consideration of a bill is not to be a repeat of the second reading debate on the policy of the bill. Moreover, witnesses with a clearer idea of what was expected of them -- and what kinds of representations should be made -- could improve the process, and make their contributions more meaningful.

PRIVATE MEMBERS' BUSINESS

In its 1985 report, the McGrath Committee stated: "The purpose of reform of the House of Commons in 1985 is to restore to private members an effective legislative function, to give them a meaningful role

in the formation of public policy and, in so doing, to restore the House of Commons to its rightful place in the Canadian political process" (*Third Report,* p. 1). One of the areas where the Committee recommended changes was Private Members' Business. This is the hour each day set aside to deal with bills and motions introduced by private Members, from the government or opposition sides. The changes, including the provision that a certain number of such bills and motions be guaranteed to come to a vote, have resulted in the passing of a number of private Members' bills and motions and have generally been viewed very favourably.

The 1991 changes with respect to Private Members' Business come from the recommendations in the twenty-first report of the Standing Committee on Privileges and Elections. Many of the changes are of a technical or procedural nature, and are designed to streamline the operation of Private Members' Business and to enhance its effectiveness by enabling more Members to participate and more bills and motions to be considered.

A number of the Standing Committee's recommendations had formed the basis for certain provisional standing orders that were in effect throughout most of 1990. These included such matters as the selection of items for the order of precedence, the selection of votable items, the time limit for debate on votable items, and Private Members' Business on supply days. These changes were intended to enable more Members to have their bills and motions debated, and were reasonably successful in this regard. For instance, the introduction of separate draws for bills and motions has increased the number of private Members' bills that the House has had an opportunity to consider. Similarly, the drawing of names of Members, rather than bills or motions, has allowed more Members to have their proposals considered. The time allotted to votable items was reduced from five hours to three; it was felt that three hours gave sufficient opportunity in most cases for Members to express their views, while at the same time allowing more bills and motions to be dealt with. The provision that Private Members' Hour not be suspended on supply days has also provided a greater degree of certainty in the scheduling of Private Members' Business. These changes have now been made permanent as a result of the 1991 changes to the Standing Orders.

Other changes from the Standing Committee's twenty-first report include a provision that if Private Members' Hour needs to be cancelled on Mondays, when it precedes the rest of the business of the House, the House can use the time to deal with government business instead. (On all other days, Private Members' Business is dealt with at the end of the day, and the House continues with the business before it if the Hour is cancelled for any reason.) Provision is also made to enable an exchange of votable as well as non-votable items where a Member is unable to be present; the notice required for such an exchange is now 48 hours instead of 24 as under the old rules.

A major change is that when debate on a non-votable bill or motion ends, the new Standing Orders provide that the matter is dropped and cannot be voted upon, unless there is unanimous consent. This is a significant departure from the spirit of the McGrath Committee. The new rules also provide that recorded votes concerning Private Members' Business can be deferred at the request of the Whips.

It should be noted that the provisions regarding Private Members' Business were unanimously supported by the House on 11 April 1991, unlike the other elements in the package of changes to the Standing Orders.

OTHER CHANGES

A number of other miscellaneous changes to the Standing Orders were made in the motion of 11 April 1991.

The time for presenting petitions is now restricted to 15 minutes per day; previously it was unlimited. The right to vote on first reading of a bill is removed as the motions for leave to introduce a bill and first reading are now automatic. These changes prevent two procedural devices that were commonly used as delaying tactics by opposition politicians.

Matters raised during the adjournment proceedings, at the end of certain days, may now last no more than six minutes, a reduction from ten minutes under the old rules, and there has been a corresponding reduction in the time limits on speeches. There is, however, no reduction

in the amount of time -- thirty minutes -- set aside for adjournment debates, so that, instead of three matters, five can now be raised. Written questions on the order paper can now be transferred to the adjournment proceedings if not answered within 45 days.

Under the new Standing Orders, the need for unanimous consent can be over-ridden in certain circumstances for motions of a routine nature. A great deal of the business of the House of Commons is the result of negotiation and agreement among the house leaders of the various parties. Any agreement to dispense with certain rules requires unanimous consent. Thus, a single Member can prevent certain actions.

The current House of Commons has a number of independent Members, as well as representatives of the Bloc Québécois and Reform parties, neither of which is officially recognized. These Members had an enormous amount of potential power under the old rules. At the same time, a parliamentary system is based on the notion that, in the final analysis, the majority rules.

One of the new Standing Orders provides that if unanimous consent is denied to certain kinds of motions they can be raised by a Minister during routine proceedings and can be dealt with, unless 25 Members or more signify their opposition. This rule is obviously designed to improve the efficiency of the House. Certain safeguards are included: as indicated, there must be some previous effort to obtain unanimous consent, so that in a sense notice will have been given, even if not as much as ordinarily required. Second, the government argues that, since the rule can be applied only during routine proceedings, when a large number of Members are usually present the chamber, protection is afforded to the opposition parties. Third, only certain kinds of motions -- mostly relating to House business of an administrative nature -- are involved: Standing Order 56.1.(1) allows the procedure to be used only in relation to a "routine motion," which is defined as a motion that may be required for "the observance of the proprieties of the House, the maintenance of its authority, the management of its business, the arrangement of its proceedings, the establishing of the powers of its committees, the correctness of its records or the fixing of its sitting days or the times of its meeting or adjournment."

Another change makes automatic the reinstatement of any item of business dropped from the Order Paper due to an adjournment or the lack of a quorum. Quorum remains at 20 Members.

The Clerk of the House is also directed by the new Standing Orders to maintain a Register of Paired Members. "Pairing" is the system whereby two Members on opposite sides of a question agree not to vote on a particular matter; they thereby cancel each other out and do not affect the outcome of the vote. Pairing is often resorted to when Members are unable to be present for a vote and is a long-standing parliamentary practice, having originated in Great Britain in the time of Cromwell. The first pair in Canada was recorded less than three weeks after the new Parliament met in 1867. At times, pairing was very common in the Canadian House of Commons, and, at one time, a procedure apparently existed for registering pairs. The introduction of a Register of Paired Members appears to be an attempt to revive this practice, which is followed in certain other jurisdictions. It is likely, however, that, as various Speakers have ruled in the past, agreements to pair will remain private arrangements between Members and in no sense matters in which the Speaker or the House can intervene to enforce such agreements.

Various other changes are also included in the package.

CONCLUSIONS

The 1991 changes to the Standing Orders were the result of discussions and negotiations among the House leaders of the three major political parties in the House of Commons. There were no public hearings or committee study of the proposed changes. The ensuing debate was quite acrimonious and bitter. Although there was general agreement on a number of the proposed changes, there was considerable controversy over others. Opposition Members criticized the process, and the debate was ended only by the application of closure. Whether this background will affect the operation of the new Standing Orders will become apparent only with time.

During the debate on the proposed amendments, a great deal was said about the cynicism and disillusionment of Canadians with respect

to politicians. The televising of the House of Commons has exposed certain shenanigans, and exacerbated certain problems. No rule changes, however, in themselves can alter Members' behaviour or attitudes or fulfil all the public's expectations.

The 1991 package of changes to the Standing Orders are noteworthy for their breadth: they affect practically every aspect of House of Commons procedure. Many of the changes are inter-related. At the same time, a number of areas were not touched, including Question Period, which many Members, especially on the government side, believe needs to be reformed. As noted above, procedural rules are never static or final; further changes are inevitable, whether it is to reflect changes in the composition of the House or changes in attitudes and priorities.

Procedural changes are never easy to implement. There are those who resist changes because of fear of the unknown. Some -- usually on the opposition side -- are reluctant to give up well-known procedural tactics, while others -- on the government side -- often value efficiency over all else. These divergent interests are not always easy to reconcile. Only time will tell whether the 1991 changes to the Standing Orders are successful, and live up to expectations.

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25971	BLACK
25972	LIGHT BLUE
25973	DARK BLUE
25974	LIGHT GRAY
25975	LIGHT GREEN
25976	DARK GREEN
25977	TANGERINE
25978	RED
25979	EXECUTIVE RED

GENUINE PRESSBOARD

® ACCO INTERNATIONAL INC.
CHICAGO, ILLINOIS 60619